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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Verizon Telephone Companies	)	WC Docket No. 02-237
	)	
Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation	)	

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OFFICE OF THE SECRETARY

COMMENTS OF SPRINT CORPORATION

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September 18, 2002

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COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby respectfully submits its comments in the above-captioned request of Verizon to discontinue the provision of federally tariffed physical collocation services in the former Bell Atlantic region. As discussed below, there are no "reasonable substitutes" for the federal physical collocation arrangement. There are many reasons why federally tariffed physical collocation is superior to state tariffed physical collocation, to virtual collocation, or to collocation obtained pursuant to interconnection agreements. Furthermore, Verizon's application is merely an end-run around the FCC's requirement that collocation rates be just and reasonable. Having failed to obtain authorization from the FCC to charge the rates it wished to assess for federal physical collocation, Verizon now proposes to achieve its desired rate changes by eliminating its federal offering and pushing federal collocation customers into its state tariffs.

Grant of Verizon's application will have a deleterious financial and operational impact on Verizon's competitors, to the detriment of the development of local competition. Therefore, this application should be denied.

I. INTRODUCTION AND SUMMARY.

In its application, Verizon requests that it be allowed to discontinue offering expanded interconnection services through physical collocation in its federal tariffs; instead, it will offer expanded interconnection through federally tariffed virtual collocation, or physical collocation through its state tariffs and interconnection agreements. Existing federal physical collocation arrangements may be converted to state tariff or interconnection agreements, or they may be partially grandfathered under the existing federal tariffs – the customer will continue to be billed federal space-related and cross-connect charges, but will be billed state rates for DC power; any new services (new cross-connects, new cable racking, new entrance cabling); any changes, additions, or rearrangements of space; and all other miscellaneous services (Application, pp. 4-5). In an attempt to compensate a subset of its customers for some of the high nonrecurring charges they paid to obtain federal physical collocation service, Verizon proposes to issue annual "conversion credits" over a 9.5 year period.[1] Verizon states (p. 3) that these changes are necessary because "...inconsistencies in rate levels and rate structures between the state and federal tariffs for physical collocation...have been difficult for Verizon to reconcile."

Verizon's application should be denied. First, there are no reasonable substitutes for the federal physical collocation arrangement. Physical collocation under state tariffs would impose a significant financial cost on existing federal collocation customers; federal virtual collocation arrangements are not suitable for operational and

[1] This conversion credit applies only to customers who convert to state physical collocation arrangements in Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. The credit is based on the average unamortized difference between the federal and state nonrecurring charges for space preparation.

administrative reasons; and interconnection agreements may not meet the needs of existing federal customers because of on-going disputes between the ILEC and CLEC about the type of traffic the CLEC may send over facilities obtained pursuant to the interconnection agreement. Second, Verizon has previously attempted to address its inconsistent state/federal rate levels and rate structures -- the result of Verizon's own tariffing strategies and management decisions -- by proposing revisions to its FCC Tariffs 1 and 11. Verizon subsequently withdrew these tariff revisions when it was unable to demonstrate the reasonableness of those rates and terms. Having failed to obtain approval of its revised federal tariff, Verizon now proposes to do an end-run around the FCC by eliminating its relevant federal tariff offering and forcibly migrating federal physical collocation customers to its state tariffs.

II. THERE ARE NO "REASONABLE SUBSTITUTES" FOR FEDERALLY TARIFFED PHYSICAL COLLOCATION ARRANGEMENTS.

In its Application, Verizon asserts (p. 4) that state tariffed physical collocation, collocation under interconnection agreements, or federally tariffed virtual collocation each constitutes a "reasonable substitute" for federally tariffed physical collocation arrangements, and that Verizon thus satisfies Section 63.71(a)(ii) of the Rules. Verizon is mistaken. Because of the financial and operational impact of forced migration to any of these alternatives, none of these options is a reasonable substitute for federal physical collocation.

A. Forced Migration to State Tariff Offerings Would Have A Severe Financial Impact on Collocators.

Verizon adopted different cost recovery strategies in its federal and state expanded interconnection tariffs. Broadly speaking, Verizon chose to recover the bulk of its federal expanded interconnection costs through nonrecurring charges (NRCs);

therefore, its federal NRCs were very high and its monthly recurring charges (MRCs) were low (relative to its state tariffed rates). Verizon adopted the opposite approach in its state tariffs; therefore, its state physical collocation offerings had low NRCs and high MRCs.[2] If the instant application is granted, certain collocators such as Sprint would experience the worst of both worlds – it has already paid the high NRCs for its federal physical collocation arrangements, and would be forced to pay high MRCs if those arrangements are migrated to the replacement state tariff physical collocation offering. Verizon's plan to offer conversion credits for certain of its federal physical collocation customers for already-paid federal NRCs is simply inadequate.

Sprint and other collocators made multi-million dollar (in some cases, even hundreds of millions of dollars) business decisions about where and when to invest in collocation equipment and facilities based in part on the assumption that the service offerings selected (in this case, federal physical collocation) would continue to be available at reasonable rates, terms and conditions. Verizon's attempt to change the service environment in the costly and disruptive manner proposed here is clearly unreasonable. Given the financial impact of Verizon's proposal, the state tariff alternative cannot be considered a reasonable substitute for federal physical collocation service.

1. Recurring Charges

As summarized in Table 1 below, Sprint estimates that a forced migration of its federal physical collocation arrangements to state tariffed physical collocation arrangements will result in an overall increase in applicable monthly recurring charges of

[2] According to Verizon's own calculations (*see, e.g,* Application, Attachment C), the average FCC NRC is $47,686, and the average state NRC is $15,147.

20%.[3] Because collocation costs are a major expense category, increases of this magnitude will certainly result in an increase in the rates Sprint must charge its customers.

Table 1
Change in MRCs Incurred by Sprint Resulting from Migration to State Tariffs

Verizon – MA	+34 %
Verizon – New York	+53 %
Verizon – South	- 9 %
Overall	+20 %

The increase in Sprint's collocation costs is, of course, an increase in Verizon's collocation revenues. If Verizon is allowed to impose cost increases of this magnitude on Sprint (and presumably other CLECs as well), it is difficult to see how local competition can develop. Grant of Verizon's application will only widen the competitive imbalance between Verizon and its CLEC competitors who rely upon its federal physical collocation offering.

2. Nonrecurring Charges

The increase in MRC expense for existing physical collocation arrangements is not offset by a decrease in NRCs, since Sprint has already paid the high federal NRCs. Even Verizon acknowledges (to a limited degree) this inequity, and proposes a conversion credit for the unamortized portion of the NRC over a 9.5 year period. However, its conversion credit plan is wholly inadequate for several reasons.

First, the credit applies only to the New England states. Verizon states (Application, p. 6) that it will not offer conversion credits in its other jurisdictions

[3] These calculations were based on demand quantities and rates in the states in which Sprint has physical collocation arrangements with Verizon.

because "space preparation charges in the other Verizon East areas are not significantly different when differences in rate structure are taken into account." Thus, Verizon concludes that no conversion credit is warranted in New York because federal customers paid a high NRC, but avoided the high recurring charges they would have incurred had they obtained service through the state tariffs.

Verizon's logic here is seriously flawed. Using Verizon's own estimates of the number of years that the average collocation arrangement has been in place and the number of years that it will on average continue to be used, collocators in New York come out far behind financially by the forced migration to the state tariff: they would have paid the high federal NRCs up front, received low (relative to state rates) recurring charges for 2.5 years, and will pay high state recurring charges for 9.5 years into the future. In the first 2.5 years of service, the present value of federal non-recurring and recurring space-related charges is significantly higher than the state recurring charges -- $56,066.14 for federal vs. $31,436.69 for state -- a difference of $24,629.45 (or $32,586 in current dollars) for a single 100-square foot collocation cage.[4] Clearly, there is no rational basis for Verizon's decision not to offer conversion credits in New York.

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[4] Based on Verizon Tariff FCC No. 11, Section 31.28.1(A) and (B), the federal rates are:

Space preparation NRC for 100 sq ft	$47,686.20
Average floor space MRC for 100 sq ft	$ 321.75

Based on Verizon PSC NY Tariff No. 8, Sections 35.15.8 – 9, the state rates are:

Multiplexing Node MRC for 100 sq ft	$ 222.52
Land & Building MRC for 100 sq ft	$ 984.50
Total New York space-related MRC	$ 1,207.02

Assuming that collocation sites have been in service for 2.5 years, the present value space-related cost of a site at an 11.25% discount rate at the inception of the agreement would be $56,066.14 under the federal tariff. Under the state tariff, the present value would be $31,436.69 (state tariff does not include a NRC).

Verizon's refusal to offer conversion credits in its southern region is based on similarly flawed logic. The state nonrecurring charges for physical collocation "are comparable to the federal charges depending on the size of the collocation arrangement" (Application, p. 7). However, according to Verizon's own numbers (*id.*, n. 4), state NRCs do not approximate federal NRCs unless the collocator has at least a 283-square foot arrangement. For a 100-square foot arrangement (the size typically used by Sprint), the state NRC is $32,263.92 and the federal NRC is $47,686.20. Thus, federal customers in Verizon-South with cages of less than 283 square feet also are significantly harmed by the total lack of conversion credits.

Contrary to Verizon's assertions, federal physical collocation customers in all of its states affected by the instant application will be seriously harmed unless a reasonable conversion credit is provided. Therefore, Verizon should be required to offer conversion credits in all of its states that would be affected by grant of the instant application.

A second flaw with Verizon's treatment of NRCs is its proposal to credit the unamortized federal NRCs over an extended period of time (9.5 years). Sprint and other carriers who obtained physical collocation from Verizon's federal tariffs were required to pay the high NRCs in a lump sum upon installation of the service – Verizon did not offer a 12- or 9.5-year financing plan at below-market interest rates. If Verizon's application is granted, it should be required to pay any unamortized credit for the federal NRC to the collocator in a lump sum, on the effective date of the revised federal tariff. To do otherwise is clearly inequitable and unreasonable.

In order to compute a reasonable lump-sum conversion credit, Sprint suggests that Verizon should be required to calculate the dollar difference between the federal and state

NRCs, and between the federal and state MRCs assessed during the 2.5 years in which the average physical collocation arrangement has been in place. The difference in MRC payments should then be adjusted to reflect the time value of money (the 2.5 year period) using a reasonable discount factor. Then, the difference between the NRCs and the adjusted difference between the MRCs should be summed to yield the net difference in tariffed costs; that net figure should then be adjusted (again using a reasonable discount factor) to reflect the current dollar value. This current dollar value amount is the conversion credit.

Besides reflecting the different federal and state rate structures, the methodology described above has the additional advantage of avoiding assumptions about the period of time a collocation arrangement may remain in service. Verizon's use of the 9.5 years remaining life is based on an unfounded and unexplained assumption that the total average life of a physical collocation arrangement is related to a 12-year depreciation life for circuit equipment. The depreciation period of circuit equipment was chosen arbitrarily, and obviously has nothing to do with the proper timing of conversion credit payments.

3. Administrative Costs

Finally, Sprint would note that grant of Verizon's application and the forced migration to state tariff offerings will increase CLECs' administrative costs, since CLECs will be forced to track and audit two sets of tariffs. The partial grandfathering of existing federal physical collocation (or the augmentation pursuant to state tariffs of existing arrangements) involves rates, terms and conditions from both the state and the federal tariff. The gains in administrative efficiency Verizon may enjoy are very likely

outweighed by the additional administrative burden imposed on Verizon's collocation customers.

B. Virtual Collocation Is Not A Reasonable Substitute for Existing Physical Collocation.

Sprint began deploying physical collocation arrangements pursuant to federal tariffs several years ago, and currently has such arrangements implemented throughout Verizon's incumbent local operating territories. Sprint elected to use federal physical collocation for both practical and operational reasons. Administratively, this approach was preferable because at the time, state physical collocation arrangements were not universally available, or were not available at consistent rates and terms, throughout the Verizon region. Obtaining physical collocation through Verizon's federal tariffs appeared to offer the kind of consistency and stable regulatory platform which is a key factor in making long-term capital investment decisions and formulating viable business plans.

Converting physical collocation arrangements to virtual collocation would be undesirable for several reasons. First, physical collocation gives the collocator around-the-clock access to its equipment and facilities in order to perform routine and emergency maintenance and repair. In contrast, the ILEC (the collocator's most significant competitor) controls access to virtual collocation arrangements. The ILEC also provides the maintenance of equipment in such arrangements – a situation which can be problematic if the ILEC technicians are unfamiliar with the collocator's equipment. Second, in physical collocation arrangements, the collocator is generally able to add equipment or upgrade its hardware and software at its own discretion and on its own timetable. In virtual collocation arrangements, the collocator often is required to obtain

permission from the ILEC before such changes can be made, introducing delay (typically several months) and additional administrative expense to the project. Thus, for operational, financial and administrative reasons, virtual collocation may not be a reasonable substitute for physical collocation.

C. Interconnection Agreements Are Not Reasonable Substitutes for Federal Physical Collocation Arrangements.

It has been Sprint's experience that some RBOCs provide facilities pursuant to interconnection agreements only if a preponderance of the traffic using those facilities is local. Thus, Sprint believes that many collocators continue to rely upon federal physical collocation tariff offerings rather than interconnection agreements to ensure that their access traffic arrangements (especially those involving a transport provider other than the ILEC) are not jeopardized, and to avoid RBOC attempts to control the type of traffic handled by collocation facilities. If Verizon's application here is granted, CLECs and IXCs have no guarantee against disruption of existing access arrangements in the event that they are pushed into replacement interconnection agreement arrangements. Under these conditions, collocation obtained pursuant to interconnection agreements cannot be considered a reasonable substitute for federal physical collocation service offerings.

D. Any Attempt to Restrict Customers' Use of Their Collocation Space Must Be Prohibited.

If, contrary to Sprint's recommendation, the Commission grants Verizon's request to discontinue its federal physical collocation offering, the Commission must explicitly state that Verizon may not restrict customers' use of their collocation space upon forced migration to state tariffs or interconnection agreements. Today, existing federal physical collocation customers may use their collocation facilities to interconnect with non-ILEC

switched and special access service providers, and with any provider of local service, advanced services, and CMRS. The Commission must specify that collocators may continue to use their existing and new collocation facilities for these same purposes under state tariffs and interconnection agreements.

Section 251(c)(6) of the Act requires that ILECs allow the "physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier...." The Commission's expanded interconnection rules require collocation for interstate purposes by all parties, including non-carrier end users, that seek to terminate transmission facilities at LEC central offices. If Verizon is allowed to discontinue offering federal physical collocation, it must be made crystal clear that Verizon may not in any way reduce the rights of collocators available under the Commission's expanded interconnection rules. As the Commission correctly found in the *Local Competition Order:* [5]

> ...it would make little sense to find that sections 251 and 252 supersede our *Expanded Interconnection* rules, because the two sets of requirements are not coextensive.... Certain competing carriers – and non-carrier customers not covered by section 251 – may prefer to take interstate expanded interconnection service under general interstate tariff schedules. We find that it would be unnecessarily disruptive to eliminate that possibility....

To avoid such "unnecessary disruption," the Commission should deny Verizon's request to discontinue federal physical collocation. However, should Verizon's application be granted, the Commission must emphasize and ensure that the rights currently available to collocators under federal physical collocation tariffs do not evaporate with the

[5] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* 11 FCC Rcd 15499, 15808-9 (para. 611) (1996). Indeed, "[t]he purpose of the *Expanded Interconnection* requirement was to foster competition in the market for interstate switched and special access transmission facilities. The purposes of section 251 are broader" (*id.*, para. 590).

discontinuance of the federal tariff and the forced migration to alternative interconnection offerings.

III. THE INSTANT FILING IS AN END-RUN AROUND THE FCC's REQUIREMENT THAT VERIZON DEMONSTRATE THAT ITS RATES ARE JUST AND REASONABLE.

In 2001, Verizon proposed to amend its FCC tariff numbers 1 and 11 by revising the rates for DC power for physical collocation, and establishing a new DC power rate element for virtual collocation.[6] Sprint and other interested parties objected to these revisions, arguing among other things that the proposed DC power rates were excessive and inadequately justified.[7] The Commission suspended the tariff revisions and set them for investigation, directing Verizon to provide additional information to demonstrate the reasonableness of its proposed DC power rates.[8] Sprint and other parties filed comments demonstrating the flaws in Verizon's direct case; the investigation was terminated without issuance of an order addressing the reasonableness of the proposed tariff revisions after Verizon withdrew the tariff revisions it had made and reinstated the tariff rates, terms and conditions in effect prior to the effective date of Transmittals Nos. 1373 and 1374.[9]

The instant application is designed to achieve the same results which Verizon unsuccessfully sought in Transmittal Nos. 1373 and 1374. Having failed to convince the

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[6] Bell Atlantic Transmittal Nos. 1373 filed April 11, 2001, and Transmittal No. 1374, filed April 12, 2001.

[7] *See, e.g.*, Sprint's Petition to Reject or Suspend and Investigate Verizon Transmittal No. 1373, filed April 18, 2001.

[8] *In the Matter of Bell Atlantic Telephone Companies Revisions to Tariff FCC Nos. 1 and 11 (Transmittal Nos. 1373 and 1374), Verizon Telephone Companies Tariff FCC Nos. 1 and 11 (Transmittal Nos. 23 and 24),* CC Docket No. 01-140, *Order Designating Issues for Investigation* released June 26, 2001 (DA 01-1525).

[9] CC Docket No. 01-140, *Order Terminating Tariff Investigation* released September 26, 2001 (FCC 01-278).

FCC and other interested parties of the reasonableness of its proposed DC power rates and related terms and conditions, Verizon now seeks implementation of those tariff changes by eliminating its federal tariff and forcibly migrating federal physical collocation customers to less desirable alternatives. If the Commission grants Verizon's Section 63.71 application, it will lose virtually all of its authority to regulate federal collocation arrangements to state regulatory bodies responsible for reviewing state tariffs and interconnection agreements. The FCC should not tolerate Verizon's attempt to marginalize the FCC's very important role in ensuring the reasonableness of federal collocation arrangements.

It should be pointed out that loss of or sharp reduction in jurisdictional authority extends not only to the rates in specific dispute here, but also to related terms and conditions. In Massachusetts, for example, Verizon had proposed onerous security measures to govern both caged and cageless physical collocation by competitors in its central offices.[10] Among other things, Verizon proposed to allow only virtual (not physical) collocation in certain "critical function" (*i.e.,* high market potential) central offices; to require the establishment of separate space with separate entrances and/or pathways for all forms of physical collocation (at the expense of the CLEC); and to relocate existing unsecured cageless collocation arrangements to a secured area of the CO (also at the expense of the CLEC). As Sprint and other parties demonstrated,[11] Verizon's proposed security measures are excessive and unreasonable, are contrary to the Telecommunications Act of 1996, of the FCC's collocation rules and Verizon's own

[10] *Investigation by the Massachusetts Dept. of Telecommunications and Energy on its own Motion pursuant to G.L. c. 159, Sections 12 and 16, into the collocation security policies of Verizon New England Inc.*, D.T.E. 02-8.
[11] *See, e.g.,* Sprint's Initial Brief in D.T.E. 02-8 filed August 8, 2002.

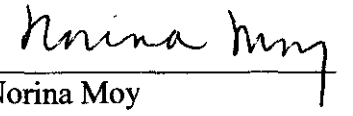
tariffs, and would impose significant financial burdens on its CLEC competitors. If Verizon is allowed to discontinue its federal physical collocation tariff, the FCC would largely lose the ability and opportunity to ensure that terms and conditions related to interstate physical collocation arrangements are just and reasonable.

IV. CONCLUSION.

Verizon's application to discontinue provision of its federal physical collocation tariff offering should be denied. The alternative collocation arrangements – state physical collocation tariffs, federal virtual collocation tariffs, and interconnection agreements – are not "reasonable substitutes" for federal physical collocation for cost and operational reasons. Further, Verizon's filing here is an end-run around the FCC: having failed previously to satisfy the Commission's requirement that its collocation rates be just and reasonable, Verizon now attempts to evade that requirement by eliminating its federal offering and forcibly migrating existing federal collocators to less attractive alternatives. Grant of Verizon's application will harm the development of local competition, and should accordingly be denied.

Respectfully submitted,

SPRINT CORPORATION



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments, filed by Sprint Corporation in WC Docket No. 02-237, was sent by Hand Delivery or United States First Class Mail, postage prepaid, on this the 18th day of September, 2002 to the following parties.

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